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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,596	12/12/2003	Mark X. Hayden	48972.830001.US0	1748
7590	08/31/2005		EXAMINER CHAMBERS, MICHAEL S	
Brian P. Kinnear HOLLAND & HART LLP 555 - 17th Street, Suite 3200 P.O. Box 8749 Denver, CO 80201			ART UNIT	PAPER NUMBER
			3711	
DATE MAILED: 08/31/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

TRSC

Office Action Summary	Application No.		Applicant(s)	
	10/735,596		HAYDEN ET AL	
	Examiner		Art Unit	
	Mike Chambers		3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 22-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/27/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 1-15 and 22-34 is acknowledged.

Claims 16-21 are withdrawn from further consideration, as directed to claims non-elected without traverse, 37CFR1.142.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-15, and 22-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tucker (6500079) in view of Lewis (4739994). Tucker discloses the elements of claim 1, however it fails to clearly disclose the use of a tapered portion (fig 1d, 6:15-65). Lewis discloses the use of a tapered portion (fig 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the tapered portion of Lewis with the apparatus of Tucker in order to provide a more secure connection between the head and shaft.

As to claim 2: Lewis discloses a tapered head (fig 2). The specification provides no detail as to what constitutes an "outwardly tapered head", therefore the Lewis taper is considered outwardly tapered.

As to claim 3: The specification provides no unexpected or surprising results in using a second taper. It would have been obvious to one of ordinary skill in the art to have included a second taper in order to permit the handle to be easily reused if the first taper is damaged.

As to claim 4: Lewis discloses an octagonal shape (fig 3). The specification provides no unexpected or surprising results in using a non-protruding octagon cross-sectional shape. This is considered a design choice.

As to claim 6: Lewis discloses graphite (4:42-45).

As to claim 7: Lewis discloses a smaller diameter portion (fig 2).

As to claim 8: Lewis discloses a tapered head (fig 2). The specification provides no detail as to what constitutes a "standard hand position", therefore the Lewis tapered portion is considered to be in a standard hand position.

As to claim 9: Lewis discloses a rubber coating (8:31-45).

As to claim 10: Lewis discloses a lacrosse shaft (fig 2). The specification provides no detail as to what constitutes a "conforms to the regulations", therefore the Lewis taper is considered to conform.

As to claim 11: Lewis discloses a lacrosse head (fig 1).

As to claim 12: Lewis discloses a detachable head (fig 1,2). It is old to have a detachable head.

As to claim 13 : See claim 1 rejection.

As to claim 14 : See claim 8 rejection.

As to claim 15: The specification provides no unexpected or surprising results in coating the entire shaft. It would have been obvious to one of ordinary skill in the art to have any or all of the shaft coated based on cost and design considerations.

As to claim 22 : See claim 3 rejection.

As to claim 23 : See claim 1 rejection. The use of a rubber coating would naturally give the shaft a low coefficient of conductivity.

As to claim 24 : See claim 9 rejection.

As to claim 25 : See claim 15 rejection.

As to claim 26: Lewis discloses a tapered portion (fig 1,2).

As to claims 27 and 28 : See claim 4 rejection.

As to claim 29 : See claim 1 rejection. With as much structure as claimed, the shaft of Lewis has a flared end.

As to claim 30 : See claim 2 rejection.

As to claim 31 : See claim 1 rejection.

As to claim 32: Lewis discloses a tapered portion (fig 1,2).

As to claim 33 : See claim 15 rejection.

As to claim 34 : See claim 23 rejection.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the cited art above and further in view of Official Notice. Official Notice is taken that the use of carbon fibers is well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed carbon fibers with the graphite material in order to produce a structurally sound and safe device.

Also,

Claims 1-4, 7-10, 12-15, and 22-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busskohl (4958395) in view of Plastidip and Official Notice. Busskohl discloses the elements of claim 1, however it fails to clearly disclose the use of a gripable coating and the material of the shaft (fig 5-7). The use of composites is well known in the art. Official notice is taken that the use of composite semi-flexible material is well known in the shaft art and would be an obvious choice based on cost, weight and design considerations. Plastidip discloses the use of a gripable coating (pg 1,2). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the gripable coating of Plastidip with the apparatus of Busskohl in order to provide a shaft that will have a more secure grip to the player during play and increase player satisfaction.

As to claim 2: Busskohl discloses a tapered head (fig 7). The specification provides no detail as to what constitutes an "outwardly tapered head", therefore the Busskohl taper is considered outwardly tapered.

As to claim 3: Busskohl discloses a second taper (fig 5,7). Once connected, the shaft would have a taper at both ends.

As to claim 4: The specification provides no unexpected or surprising results in using a non-protruding octagon cross-sectional shape. This is considered a design choice. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected any one of several equivalent cross sectional areas.

As to claim 7: Busskohl discloses a smaller diameter portion (fig 7).

As to claim 8: Busskohl discloses a tapered head (fig 7). The specification provides no detail as to what constitutes a "standard hand position", therefore the Lewis taper is considered to be in a standard hand position.

As to claim 9: Plastidip discloses a rubber coating (pg 1,2).

As to claim 10: Busskohl discloses a lacrosse shaft (fig 2). The specification provides no detail as to what constitutes a "conforms to the regulations", therefore the Lewis taper is considered to conform.

As to claim 12: Busskohl discloses a detachable head (fig 1,2).

As to claim 13 : See claim 1 rejection.

As to claim 14 : See claim 8 rejection.

As to claim 15: The specification provides no unexpected or surprising results in coating the entire shaft. It would have been obvious to one of ordinary skill in the art to have any or all of the shaft coated based on cost and design considerations.

As to claim 22 : See claim 3 rejection.

As to claim 23 : See claim 1 rejection. The use of a rubber coating would naturally give the shaft a low coefficient of conductivity.

As to claim 24 : See claim 9 rejection.

As to claim 25 : See claim 15 rejection.

As to claim 26: Busskohl discloses a tapered portion (fig 1,2).

As to claims 27 and 28 : See claim 4 rejection.

As to claim 29 : See claim 1 rejection. With as much structure as claimed, the shaft of Lewis has a flared end.

As to claim 30 : See claim 2 rejection.

As to claim 31 : See claim 1 rejection.

As to claim 32: Busskohl discloses a tapered portion (fig 1,2).

As to claim 33 : See claim 15 rejection.

As to claim 34 : See claim 23 rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Chambers whose telephone number is 571-272-4407. The examiner can normally be reached on Mon-Fri 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

4958395*5799996*6500079*4739994*4037841

August 24, 2005

Michael Chambers
Examiner
Art Unit 3711


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